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UNCLAS VIENNA 000317

SIPDIS

DEPT FOR CA/OCS/ACS/EUR AND EUR/AGS
L/LEI FOR KEN PROPP

E.O. 12958: N/A

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SUBJECT: AUSTRIAN RESPONSE: PROGRESS TOWARDS COMPLETING
INSTRUMENTS IMPLEMENTING U.S.- EU. EXTRADITION AND MUTUAL
ASSISTANCE AGREEMENT

REF: A) STATE 8107 B) VIENNA 243

1. Under cover of a note verbale, Embassy has just received a formal Austrian response to the latest November 15, 2004 proposals for completing the texts of the extradition and mutual legal assistance protocols. In a telephone conversation our contacts at the MFA suggested these were only minor technical issues relating to the "final clauses". Consular Section is verifying whether other substantive issues remain open that would require further negotiations.

2. An informal translation of the above-mentioned Austrian note with the suggested changes reads as follows:

(Complimentary opening)

1) Since the final clauses deal with the two instruments referred to as "Protocols" (also in all the other treaty provisions), the Austrian side would favor also using the term "this Protocol" in the final clauses.

2) Austria notes that in the final clauses reference is made to the "Extradition Agreement" and the "Mutual Legal Assistance Agreement" as opposed to the short forms proposed in the two preambles as being "the U.S.-EU Extradition Agreement" and "the U.S.-EU Mutual Assistance Agreement". The Austrian side would favor the use of the latter short forms, which are used in most other protocol articles.

3) In the final clauses Austria would favor using the term "both parties" as opposed to specifying "the Republic of Austria" and "the United States of America", where appropriate. Using the term "both parties" would facilitate the preparation of the final texts and eliminate the need for the alternating rule. Should the final proposed clauses remain as they are, the contract parties' names must be alternated. This means the English language text intended for Austria would need to read "subject to the completion by the Republic of Austria and the United States of America of. " whereas the text for the U.S. would have to read "subject to the completion by the United States of America and the Republic of Austria of.". The same rule of alternation would need to be applied for the German version text.

(Complimentary close)

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